

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: **Adeline Olmer Santiago**

Chapter 11

Case No. 17-22226-rdd

Debtor(s).  
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**CREDITOR'S REQUEST FOR  
TERMINATION OF LOSS MITIGATION**

Upon information and belief and based upon information furnished by the Creditor,<sup>1</sup> attorney for Creditor, hereby requests termination of Loss Mitigation on the following Loan :

**Loan Information:**

- 353 Sleepy Hollow Rd  
Briarcliff, NY 10510-2138
- XXXXXX9735
- Creditor's lien priority position: First

**Loss Mitigation Information:**

- Loss Mitigation was requested on:
- A "*Loss Mitigation Order*"<sup>2</sup> was entered on:
- The last Loss Mitigation session was conducted on:

This request for termination of Loss Mitigation is based upon the following [*check all that apply*]:

**X Missing Documents:** A "*Creditor Loss Mitigation Affidavit*" was served on the Debtor by Creditor and filed on ECF on July 20, 2017 and Creditor still has not received the following documents [*check all that apply*]:

- ☐ Two consecutive pay periods of paystubs and/or two months of profit and loss statements from self-employed business.
- ☐ The last two years of income tax returns, signed by all taxpayers.

<sup>1</sup> Unless otherwise provided herein, all capitalized terms are defined in the Southern District of New York's Loss Mitigation Program Procedures. The Loss Mitigation Program Procedures' definition of "Debtor" includes joint debtors.

<sup>2</sup> Italicized words in quotations indicate that there is a form by the same name on the Bankruptcy Court's website. These forms shall be used whenever applicable.

- ☐ Hardship letter
- ☐ Debtor has failed to provide the Creditor with adequate protection during Loss Mitigation as ordered by the Court by Order dated \_\_\_\_\_. The last payment received by Creditor from Debtor was on \_\_\_\_\_ in the amount of \$\_\_\_\_\_, which was applied to the \_\_\_\_\_ payment.
- ☐ Statement of monthly income and expenses.
- ☐ Proof of residency.
- ☐ Third party affidavit regarding contribution.
- ☐ Two months of bank statements.
- ☐ Appraisal of home or statement of value of home

X Other to be specified here: Debtor applied for loss mitigation, and was denied. A Detailed letter explaining the denial was filed with this Court (See Docket No. 32). Thereafter, Debtor's counsel and Creditor's counsel had a telephone conference, and Debtor's counsel indicated his client was going to submit a new package for loss mitigation review. In addition, after prior loss mitigation hearing, Debtor was directed to obtain and notice an adjournment date. As of today's date, an adjournment date/letter was not filed with the Court or noticed to Creditor's counsel and Creditor's counsel has not been provided with any appeal OR new loss mitigation package documents. Creditor's counsel has followed up with Debtor's counsel since February 13, 2018, and is still not in receipt of any documents. Debtor's counsel had previously indicated that all documents would be submitted by February 12, 2018.

**X Insufficient Income:** Debtor has insufficient income to support a loan modification. This is based upon Debtor's monthly income of **\*See Docket No. 32, with attached denial letter and explanation of denial.**

- ☐ paystubs
- ☐ tax returns
- ☐ operating statements
- ☐ budget
- ☐ third party contribution
- ☐ Debtor's monthly expenses of \_\_\_\_\_ .
- ☐ Debtor has insufficient income to support a loan modification that would add the amount of arrears of \$\_\_\_\_\_ to be recapitalized by the loan modification. The principal balance of the loan modification would have to be

\$ \_\_\_\_\_, which would require a monthly payment of \$ \_\_\_\_\_  
at \_\_\_\_\_ % interest.

- ☐ **Debtor Does Not Qualify:** The Debtor does not qualify for Loss Mitigation for the following reasons *[check all that apply]*:

- ☐ Debtor's real property does not qualify for Loss Mitigation based upon an appraisal dated \_\_\_\_\_ and a value of \_\_\_\_\_.
- ☐ This property is NOT Debtor's principal residence. Debtor resides at \_\_\_\_\_.
- ☐ Debtor has already received a loan modification as of \_\_\_\_\_, which resulted in the loan being adjusted by \_\_\_\_\_ *[a copy of the previous loan modification documents MUST be attached as an exhibit to this request]*.
- ☐ It has been determined that this loan is not in need of modification, as Debtor is current and/or is able to show the ability to pay under the note as it currently exists.

- ☐ **Title Issues:** There are title issues *[check all that apply]*:

- ☐ Title is in the name(s) of: \_\_\_\_\_ and the note is in the name(s) of: \_\_\_\_\_.
- ☐ Liens exist against the property;
  - they are: \_\_\_\_\_.
- ☐ Other: \_\_\_\_\_.

- ☐ **Previous Modification:** Debtor was approved for a loan modification as of \_\_\_\_\_, but Creditor seeks to terminate Loss Mitigation because the Debtor has not *[check all that apply]*:

- ☐ made the necessary payments in the trial period, with the last payment received by Creditor on \_\_\_\_\_ in the amount of \_\_\_\_\_.
- ☐ supplied the following documents requested on \_\_\_\_\_.
- ☐ Debtor's income has changed since the trial period. Current income is now \$ \_\_\_\_\_, based upon \_\_\_\_\_ while pre-trial income was \$ \_\_\_\_\_, based upon \_\_\_\_\_.
- ☐ Debtor's expenses have changed since the trial period. Current expenses are now \$ \_\_\_\_\_, based upon \_\_\_\_\_ while pre-trial expenses were \$ \_\_\_\_\_, based upon \_\_\_\_\_.

- ☐ **Lack of Adequate Protection:** Debtor has failed to provide the Creditor with adequate protection during the loss mitigation process as ordered by the Court by order dated \_\_\_\_\_. The last payment received by Creditor from Debtor was on \_\_\_\_\_ in the amount of \$\_\_\_\_\_, which was applied to the \_\_\_\_\_ payment.
- ☐ **Other:** *[Explain in detail]*: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I hereby attest that on 3/20/2018, our office spoke directly with Chanel P. Orgill via telephone to personally advise of the Creditor's decision to request termination of Loss Mitigation and the reason(s) for the same. I hereby understand that the "*Creditor's Request for Termination of Loss Mitigation*" will NOT be entertained by the Court unless Creditor conducts a telephone status conference with the Debtor's designated contact person and advises the Debtor's designated contact person of the basis for the denial **PRIOR** to requesting termination.

Wherefore, Jenelle C. Arnold, Attorney for Creditor, hereby requests termination of the loss mitigation process based upon the above information supplied by the Debtor and relied upon by the Creditor.

Dated: 3/21/2018

Respectfully Submitted:

/s/ Jenelle C. Arnold

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